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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,549	04/05/2002	Tommi Koistinen	4925-161PUS	5724

7590 05/14/2007
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EXAMINER

WOZNIAK, JAMES S

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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05/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/980,549

Applicant(s)

KOISTINEN, TOMMI

Examiner

James S. Wozniak

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413).
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In response to the office action from 2/2/2007, the applicant has submitted a request for continued examination, filed 2/22/2007; amending independent claims 1, 4, and 9, while arguing to traverse the art rejection based on the amended limitations (*Amendment, Pages 5-7*). The applicant's arguments have been fully considered but are moot with respect to the new grounds of rejection in further view of Yletyinen ("*The Quality of Voice Over IP*," 1998).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, 4-5, and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al (*U.S. Patent: 5,493,610*) in view of Yletyinen ("*The Quality of Voice Over IP*," 1998).

With respect to **Claims 1, 4, and 9**, Suzuki discloses:

A transceiver means being operable with variable transfer rates (*means for controlling a data transmission rate, Col. 4, Lines 41-62*);

A detecting means for detecting the load upon a network circuit (*means for determining a load status of a transmission circuit, Col. 6, Lines 1-12; and Col. 10, Lines 61-65*);

A control means for adjusting the transfer rate of the transceiver means in response to the detected load (*means for designating a transmission rate of a data signal, Col. 6, Lines 1-12; and Col. 10, Lines 61-65*);

Characterized in that:

The transceiver means comprises a modem for modulating and demodulating of non-speech data (*modem for use with facsimile-related data, Col. 4, Lines 41-62; Col. 6, Lines 35-35; and Fig. 1, Element 5*) and a codec for encoding and decoding of speech data (*speech encoder/decoder Col. 4, Lines 41-62; and Fig. 1 Elements 7 and 13*).

Suzuki does not teach adjusting multiple transmission rates according to multiple priorities, wherein a speech codec has a higher priority than non-speech data. Suzuki also does not disclose device implementation in a VoIP gateway disposed between a plurality of networks. Yletyinen, however, discloses a VoIP gateway capable of decoding and encoding speech for voice over Internet protocol, which contains multiple transmission/receiving means corresponding to telephone and IP networks for the reception/transmission of speech and other non-speech data types (*Fig. 2-3; and Section 2.5, Page 8*). Yletyinen also discloses that the VoIP gateway is capable of adjusting a frame transmission rate in order to respond to congestion, wherein audio (*i.e., speech*) data rates receive priority over the rates for other types of data (*Section 3.3.2, Page 42*).

Suzuki and Yletyinen are analogous art because they are from a similar field of endeavor in congestion-based transmission rate adaptation. Thus, it would have been obvious to a person

of ordinary skill in the art, at the time of invention, to modify the teachings of Suzuki with the VoIP gateway taught by Yletyinen in order to provide a system for cost-effective voice transmission that allows communication between users of different networks that is capable of responding to varying congestion conditions (*Yletyinen, Pages 6 and 42*).

With respect to **Claims 2 and 5**, Suzuki further discloses:

The transceiver means comprises a plurality of predetermined transfer rates and the control means is adapted to select one of the predetermined transfer rates in response to the detected load (*multiple transmission rates, Col. 6, Lines 55-67; and transmission rate designation, Col. 6, Lines 1-12*).

4. **Claims 3 and 6-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al (*U.S. Patent: 5,493,610*) in view of Yletyinen and further in view of Chang et al (*U.S. Patent: 5,367,523*).

With respect to **Claims 3 and 6-8**, Suzuki in view of Yletyinen discloses the congestion control VoIP gateway as applied to Claims 1, 4-5, and 9. Suzuki in view of Yletyinen do not explicitly disclose measuring a round trip of a test packet in order determine a network load, however Chang discloses:

Sending a test packet to a predetermined destination over the network, receiving the test pack back from the predetermined destination and analyzing the occurring delay in order to determine the load on the network (*determining network congestion based on a round trip delay of a rate feedback request sample packet, Col. 7, Lines 46-56; and Col. 10, Lines 29-38*).

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Suzuki, Yletyinen, and Chang are analogous art because they are from a similar field of endeavor in congestion-based transmission rate adaptation. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Suzuki in view of Yletyinen with the delay detection means taught by Chang in order to provide a convenient means for dynamically tracking network congestion (*Chang, Col. 7, Lines 46-56*).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Neubauer et al (*U.S. Patent: 6,269,095*)- discloses a VoIP gateway.


Jorgensen (*U.S. Patent: 6,452,915*)- discloses a method for congestion control in VoIP applications that gives a higher priority to real-time speech data.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632. The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached at (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James S. Wozniak
4/30/2007


PATRICK N. EDOUARD
SUPERVISORY PATENT EXAMINER